

FACILITIES AND PROGRAMS EXEMPT FROM LICENSURE

September 1, 1987

SUBCHAPTER d: LICENSING ADMINISTRATION

PROCEDURES 377, FACILITIES AND PROGRAMS EXEMPT FROM LICENSURE

SEPTEMBER 1, 1987

Section

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These Procedures are used by licensing representatives to determine compliance or non-compliance with Rules 377. Rules 377 implement provisions of the Child Care Act of 1969 which exempt certain child care arrangements from licensure as child care facilities. With the exception of Part day child care facilities (Section 377.4), the Department does not maintain a continuing relationship with licensed-exempt facilities. Normally the licensing representative's relationship with such facilities shall be limited to responding to inquiries intended to verify that a particular facility or program is exempt from licensure or investigating complaints that the facility or program is operating outside the parameters of its exempt status.

Any facility or program claiming that it is exempt from licensure under provisions of the Child Care Act of 1969 or Rules 377 has the burden of demonstrating that it meets the criteria for the exemption it claims.

== Section 377.1 Purpose

== Section 377.2 Definition

Section 377.3 Day Programs Exempt From Licensure

- a) All schools exempt from licensure under Rule 377.3 (a) are exempt only insofar as they enroll children "who have attained the age of 3 years" (see definition at Section 377.2). A day care center license is required if any children under age 3 are served -- even if the majority of the children are 3 years of age or older.

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- 2) The Illinois State Board of Education (ISBE) has two voluntary procedures relating to non-public schools which exempt these schools from licensure day care centers if all the children served have "attained the age of 3 years" and the requirements of this Section are met. The first of these, registration, requires that the facility complete and file a "Non-Public School Registration, Enrollment and Staff Report" with ISBE. In addition to providing ISBE information on the number of children enrolled (by age range and sex), the Report provides information regarding the number of instructional and non-instructional staff (in full-time equivalence); affiliation of the school (independent, Montessori, religious, etc.). The Report also requires assurance of compliance with state laws regarding attendance, applicable state or local fire safety requirements, and non-discrimination. The "Non-Public School Registration, Enrollment and Staff Report" is submitted annually to ISBE through the Regional Superintendent of Schools.

The second process used by ISBE is recognition. In addition to meeting the requirements for registration, recognition requires that the school set forth its educational objectives and curriculum in such a manner that these can be examined by objective observers. The operators of the school must then request that ISBE (through the Regional Superintendent of Schools) visit the school for the purpose of evaluating the extent to which the school meets its stated philosophical and operational goals and program objectives. On the basis of this visit the State Superintendent assigns a status of "full recognition," "probationary recognition," or "non-recognition" to the school. If approved, the school is issued a Certificate of Non-Public School Recognition. Continued recognition is contingent upon the school's submitting annual reports to ISBE and periodic visits to the school by staff of ISBE or the Regional Superintendent of Schools.

Schools, or that portion of schools, recognized by ISBE are exempt from licensure as day care centers under Section 2219.09 (b) of the Child Care Act of 1969. Documentation of that recognized status is a "Certificate of Non-Public School Recognition" issued by ISBE.

- 3) Section 2209.09 (c) of the Child Care Act of 1969 exempts from licensure as day care centers those schools registered with ISBE which are "... recognized or accredited by a recognized national or multi-state educational organization or association which regularly recognizes or accredits schools."

Currently, the Department recognizes these organizations or associations as meeting the requirements of the Child Care Act of 1969 for purposes of this exemption:

American Montessori Society

Association Montessori Internationale

Association For The Legal Support of Alternative Schools

Independent Association of Schools of the Central States (IASCS)

Schools claiming exemption from licensure on the basis of recognition or accreditation by these organizations are required to produce the certificate of recognition or

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accreditation issued by the organization in addition to a receipted copy of the "Non-Public School Registration, Enrollment and Staff Report" filed with ISBE. Provisional recognition or accreditation by the above-cited organizations is acceptable for compliance with the Child Care Act of 1969, but such status as "associate member" or "affiliate member" is not acceptable.

Should the licensing representative encounter other organizations or associations whose recognition or accreditation is being relied upon for purposes of the above referenced exemption, the licensing representative should secure as much information about the organization from the facility claiming the exemption as possible (particularly including the name and address of the organization, any information regarding its accreditation criteria and procedures.) The licensing representative shall not initiate contact with the recognizing or accrediting organization. Rather, the information shall be submitted to DCP, Central Office for follow-up and determination of whether accreditation or recognition by the organization meets the requirements of the Child Care Act of 1969.

NOTE: Since the name "Montessori" is in the public domain and available for use by any organization, the licensing representative shall determine that any Montessori recognition or accreditation certificate accepted is from one of the organizations specifically named above.

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b)

- 1) Section 2219.09 (e) of the Child Care Act of 1969 exempts from licensure as day care centers "... facilities operated in connection with a shopping center or service, religious services, or other similar activity, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises and readily available." This exemption does not include day care provided on premises by some employers for their staff since the children are presumed to be in regular attendance (and therefore not "transient") and the parent or custodian is not "readily available" when their job responsibilities take them elsewhere than the day care center.

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- c) When counting the number of children served by a day care home, the number counted includes the family's natural and adopted children and all children under the age of 12. To qualify for this exemption, no more than three children under the age of 12 can be in the home at any time day care is being provided. (When the children cared for are from the same household, there are no restrictions as to their age or number.)

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Section 377.4 Part Day Child Care Facilities

Unlike the programs described in Section 377.3 whose exempt status may be self-determined and verified by the Department upon inquiry or complaint, part day child care facility's are required to notify the Department of their existence and provide documentation that they qualify as part day child care facilities. Any facility operating as a part day child care facility without complying with the requirements of Rule 377.4 shall be regarded as an unlicensed child care facility until the requirements of the rule are complied with.

- a) Part day child care facilities are required to file with the Department a notice or a letter from an official of the church, religious organization or social service agency responsible for operation of the program which includes:
- o The name of the church, religious organization or agency responsible for the program;
 - o The address at which the program operates or intends to operate;
 - o The name, address and telephone number of the person(s) responsible for on-site supervision of the program;
 - o The usual days and hours that the program operates or intends to operate.

The certification that the facility complies with applicable health, fire and safety regulations may be included in the above statement provided the entire statement is notarized. Otherwise, a separate notarized statement certifying compliance with health, fire and safety regulations is required.

A photocopy of the trust instrument, certificate and articles of incorporation, articles of association or other instrument establishing the church, religious organization or social service agency as filed with the Secretary of State or clerk of the court of the county in which the church, religious organization or social service agency is located is acceptable.

- b) The organization responsible for a part day child care facility is required to notify the Department of its operation and certify its compliance with health, fire and safety regulations once every two years. If the licensing representative has reason to believe that a program which has not provided a renewal notice and certification of compliance continues to operate, he/she shall notify the church, religious organization, or social service agency responsible for the program that it is required to meet the requirements of Rule 377.4 (a) within thirty (30) days. If a renewal notice and certification is not received by the required date, the facility is operating as an unlicensed child care facility. Licensing enforcement action shall be initiated in accordance with Part 383, Licensing Enforcement.

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- d) A part day child care facility is permitted to operate without restriction as to the ages of children served. A part day facility may also operate without limitation on the number of hours -- provided no child is cared for in the facility more than eight hours per week. However, a facility which operates more than eight hours per week is required to maintain records which

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contain each child's parent(s)' name, the telephone number at which the parent(s) can be reached, and the number of hours each child is cared for in the facility.

Irrespective of the hours of its operation or whether it charges fees for its services, a part day child care facility must comply with provisions of rule 377.4 (d) restricting release of children to persons authorized by the child's parent(s) or guardian; requiring identification of persons not known to the facility staff and maintaining "primary" and "contingency" lists of persons to whom a child may be released.

- e) Rule 377.4 requires part day child care facilities to maintain the following records:
 - o The name and telephone number of each child's parent(s) or guardian if the facility operates more than eight hours per week or charges fees for its services;
 - o The name of any person on the contingency list to which a child was released and the manner by which the child left the facility.

These records may be reviewed by the licensing representative to verify compliance with Rule 377.4 (d) as well as to determine that the facility is operating within the hours it notified the Department that it would. If the licensing representative determines that the facility is operating more hours than those cited in its notification to the Department, the licensing representative shall notify the organization responsible for the program that it is required to amend its notification to the Department or be licensed as a day care center. The facility shall be treated as an unlicensed facility if it has failed to amend its notice within 30 days or it continues to operate longer hours than stated in the notification. Licensing enforcement action shall be initiated in accordance with Part 383.

The licensing representative shall create and maintain a separate record for each part day child care facility and schedule these for bi-ennial review.

== Section 377.5 Child Care Facilities Under Single Circuit Court

== Section 377.6 License Required For Government Benefit

== Section 377.7 Severability of This Part